

REMARKS/ARGUMENTS

The Notice of Non-Compliant Amendment noted that claim 19 was not provided with a proper status identifier. The status identifier of Claim 19 has been corrected to read "Previously Presented".

The Office Action dated March 8, 2010 has been reviewed and carefully considered. Claims 1-10, 12 and 14-19 are pending. Reconsideration of the above-identified application in light of the remarks is respectfully requested.

In the Office Action, claims 1-10, 12, 14-15 and 19 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Wang (U.S. Patent 6038333) in view of Randall et al. (U.S. Pub No. 2004/0249846 A1). It is respectfully submitted that independent claims 1, 10, 14 and 15 are patentable over Wang and Randall for at least the following reasons.

Independent claim 1 recites the limitations of "*A user device comprising an image acquisition device... a search engine for matching the captured image of the target person to a candidate person image data item and retrieving the personal data relating thereto, wherein the search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device...*" The Office Action indicates these limitations are shown in Randall in par. [508], [73], [17], [130],

[125] [67], table 4 and [455]. Applicants respectfully disagree. In paragraph [508] Randal teaches that a search [for data, e.g. items in shops] can be limited to a particular radius from a user (e.g. 1 mile), but does not teach that the “*search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device...*” In paragraph [73] Randal again only teaches “A search ‘for things in the area around me’ ... Paragraph [17] teaches a service which allows others to track a user’s location. Paragraph [130] teaches the ability to specify different types of availability based on a specific contact... including location information. Paragraph [125] teaches that a user must be able to switch location information on for a person or group of people ... Paragraph [67] teaches the ability to browse for a certain category of listings (e.g. restaurants) based on the user’s current location... Table 4 list the “New communication functionality”, in particular “People tracking” as described above. Paragraph [455] teaches “Keeping ServML Framework agnostic from the bearers is a key requirement, so that the solution can be deployed across geographical areas and therefore technologies. Applicants are unclear how this paragraph relates to the above claimed limitations and respectfully asked the Examiner to further explain its relevance.

Although all of the above sections teach something relating location searches or user tracking none of them teach that the “*search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device...*” Independent claim 10, 14, and 15 recite similar limitations.

A careful reading of Claim 1 reveals that the present invention realizes that since an image of the target person is captured by a first portable device, and since the candidate person each have a further portable device, the search of candidate person image data items can be restricted to candidate person image data items that relate to further portable device that are in the same geographical area as the first portable device.

To simply state that the general idea of limiting the search to member data related to further user devices in the same location as the user devices fast retrieval.... begs the question, How? It is easy to allege this as being an obvious modification. It is much easier said, however, than done. To allege otherwise is merely to reduce the method of claim 1 to a mere "gist" or "thrust." Such an interpretation disregards the "as a whole" requirement of MPEP 2141.02, and distills the complexities of the actual system of Claim 12 (the implementation of the method of Claim 1) to an abstract general buzz word, precisely the problem obviated by MPEP 2141.02.

What reference teaches, and moreover provides the motivation to combine with the present method, an actual real world reduction to practice, how is the integration to occur, what suggests the desirability of such a combination? Thus, it is not seen how the above list of elements of Wang and Randal provides the motivation to combine into the above claimed limitation...without improper hindsight by "use[ing] the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention," see *In Re Denis Rouffet*, 47 USPQ.2d 1453, 1457-58 (Fed. Cir. 1998). The Federal Circuit in *In re Rouffet* stated that virtually all

inventions are combinations of old elements. Therefore an Examiner may often find many elements of a claimed invention in the prior art. To prevent the use of hindsight based on the invention to defeat patentability of the invention, the Examiner is required to show a motivation to combine the references and further a motivation to modify the combination to justify a finding of obviousness. Applicants respectfully submit that the Examiner has not met this burden.

The mere fact that the prior art device could be modified so as to produce the claimed device, which in this case even in combination it does not (as discussed herein), is not a basis for an obviousness rejection unless the prior art suggested the desirability of the modification. See, *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984); and *In re Laskowski*, 871 F.2d 115, 117 (Fed. Cir. 1989).

The only suggestion that can be found anywhere for making the modification appears to come from the present patent application itself.

Still further, independent claim 10 recites the limitations of "...wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, *the further portable devices together forming the remote database; and*

wherein the range of the wireless communication device limits the further portable devices that form the remote database to the geographical area of the portable device."

The Office Action indicates these limitations are shown in Randal in par. 34, fig. 6 and 11-17 and 34, 508, 73, 130, 125, 67 table 4 and 455. Applicants respectfully disagree. Paragraph 34 teaches access control mechanisms for the ADS system. Fig. 6 shows one portable device and wireless network connected to LAN which connects to servers & a storage device. Paragraphs 11-17 teach various aspects of the Randal system. The other sections are discussed above. Accordingly, nothing in Randal and in particular any of the cited sections teaches *“wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, **the further portable devices together forming the remote database.**”*

Having shown that Wang and Randal alone or in combination, fail to disclose each and every element claimed, applicant submits that the reason for the Examiner's rejection of claims 1, 10, 14, and 15 has been overcome and can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of claims 1, 10, 14, and 15.

With regard to the dependent claims 2-9, 12 and 16-19, these claims ultimately depend from one of the independent claims, which have been shown to be allowable in view of the cited references. Accordingly, claims 2-9, 12 and 16-20 are also allowable by virtue of their dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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